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UNCLAS SECTION 01 OF 02 THE HAGUE 002578

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STATE FOR AC/CB, NP/CBM, VC/CCB, L/ACV, IO/S
SECDEF FOR OSD/ISP
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COMMERCE FOR BIS (GOLDMAN)
NSC FOR CHUPA
WINPAC FOR FOLEY

E.O. 12958: N/A

TAGS: [PARM](#) [PREL](#) [EIND](#) [ETTC](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): SAMPLING AND
ANALYSIS BILATERAL CONSULTATIONS

REF: STATE 220996

This is CWC-103-03.

1. Washington experts and the U.S. Permanent Delegation held bilateral consultations with the OPCW Technical Secretariat (TS) on September 30, 2003 in The Hague on technical considerations associated with sampling and analysis (S&A) during CWC inspections at U.S. declared industry facilities. Director of Verification Horst Reeps, Head of Verification's Policy Review Branch (PRB) Per Runn, Head of Verification's Industry Verification Don Clagett, Faiza Patel King (PRB), Laboratory Chief Stefan Mogl, and staffer Alex Savercenko participated. Richard D'Andrea (State/AC/CB), Larry Denyer (Commerce/BIS/TCD), Gary Mallard (Commerce/NIST), and Brandon Williams (Del) participated for the U.S. side.

2. The U.S. team began the discussions by noting the S&A progress made since the previous consultations in November 2002. Specifically mentioned were the TS exercise of off-site analysis conducted in February 2003, the TS paper on preparedness for S&A dated 15 May 2003, refinement of U.S. internal S&A procedures, and the U.S. exercise of on-site analysis using the mobile lab conducted in August 2003. The team also noted some S&A gaps. Specifically mentioned were the lack of S&A activities during routine industry inspections, incomplete procedures for off-site analysis, and policy issues concerning the basis for taking a sample, and what substances could be looked for in the analysis. The team thanked the TS for their excellent written response to the U.S. S&A non-paper (REFTEL) which has been given to the American Chemistry Council (ACC). The team expressed interest in discussing lessons learned from the recent U.S. exercise, TS plans for conducting S&A in other countries, and further thoughts on dealing with condition 18 (no samples taken during CWC inspections in the United States may be analyzed outside of the United States). The team emphasized the technical nature of these consultations and that S&A policy issues would be discussed tomorrow as part of the Article VI consultations.

U.S. Exercise

3. Larry Denyer described the U.S. exercise as a follow-up to the S&A exercise conducted in June 2002. The exercise consisted of a S&A seminar and the analysis of a sample taken from raw material feed stock. The Army's mobile lab set up on-site and performed the analysis with no support from the site. The analysis part of the exercise took about four hours. Mr. Denyer noted that the exercise was "under attended" by industry, however, the companies that did attend gained valuable insights. The U.S. has offered to repeat the S&A seminar for ACC and ACC has scheduled it for November 18, 2003. Mr. Reeps asked if the TS could attend. Mr. D'Andrea said yes, and outlined the nature of the seminar presentations. Mr. Reeps concluded that the TS would probably not benefit from attending and withdrew his request. The TS team expressed interest in conducting an exercise with the U.S. to see what sort of support would be required for the TS analytical equipment and also see what modifications site analytical equipment would be needed for use during an inspection. Mr. D'Andrea said that the previous two U.S. exercises were Commerce initiatives, and that a new exercise would likely also be a Commerce initiative, but nothing is currently on the drawing board.

TS Plans for S&A in Other Countries

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4. The U.S. team asked what plans the TS had for conducting S&A in other countries noting that it would be easier to manage the S&A logistical burden in countries closer to The Hague. The TS pointed out that they could not single out

countries for S&A based on ease or difficulty of the logistics. When the S&A function is needed it must be deployable anywhere. The TS continues to refine its S&A plans and capabilities and displayed a new prototype kit for sample taking and preparation. The new kit is smaller and lighter than the old one and is contained in three small suitcase sized containers. The U.S. team was given copies of the kit's inventory.

15. The S&A planning discussion naturally lead to a discussion about costs. The TS team stated that the average cost of an industry inspection is approximately 16,000 Euros and that S&A adds 3-16 thousand Euros and adds another team member. The costs associated with taking S&A equipment on every inspection would be prohibitive. Mr. D'Andrea suggested that in order for S&A to occur during a routine industry inspection the inspection team would have to know in advance that sampling was necessary, and that could only happen if there was an uncertainty from a previous inspection. Mr. Clagett stated that there have been 17 uncertainties and only three of those could have been avoided or resolved by S&A. He also stated that all of the uncertainties have been resolved.

Condition 18

16. Mr. D'Andrea outlined recent U.S. efforts to have a nongovernmental laboratory receive OPCW designation. He outlined the legislative requirement and the events leading up to the current participation of three nongovernmental laboratories in the current proficiency test. Mr. D'Andrea then asked if that had any impact on TS thinking about condition 18 and whether the TS had any new ideas. The TS team noted that the condition 18 language refers to samples leaving the U.S. "for analysis" and that perhaps samples could leave the U.S. only for repackaging. Mr. D'Andrea stated that the U.S. had considered and rejected that literal approach because condition 18 is aimed at protecting the custody of the sample such that no information unrelated to the Convention could be extracted from the sample. The TS asked whether the U.S. could accept a procedure in which the samples were packaged with controls and blanks in The Hague without loss of U.S. custody. This could be accomplished using optical seals and U.S. observers. Mr. D'Andrea said that he would take that concept back to Washington for review.

17. Mr. D'Andrea stated that the U.S. has identified possible laboratory facilities proximal to Dulles that could be used for sample packaging in lieu of The Hague laboratory and asked if the TS had further considered this option. The TS appears set on doing the sample packaging exclusively in The Hague in order to protect sample anonymity. The U.S. team pointed out that no matter where the samples were packaged the Host Team would know the sample's seal number that is applied on-site during the inspection. The TS countered that the designated labs worldwide do not know the origin of the sample and host teams would not know which designated labs would be used for the analysis. The TS is considering requiring designated labs to execute a confidentiality agreement to protect analysis results. Ms. King asked if the U.S. would accept such an agreement for its designated labs. Mr. D'Andrea replied that if the agreement were required as part of the OPCW designation, then it would be acceptable.

Next Steps

18. The TS asked about next steps and the U.S. team replied that further S&A exercises would be beneficial. The TS is planning S&A talks with France in November and made no mention of further talks with other countries. Clearly the U.S. owes the TS a response concerning their idea of packaging the samples in The Hague with retention of U.S. custody. Additionally, the TS would welcome any offer for a joint S&A exercise in the U.S. Neither side brought up the subject of further S&A consultations.

19. Javits sends.
SOBEL